



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,723	07/02/2001	John Christopher Barrott	AUR 0014 1A	1125

7590 05/10/2005

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton, OH 45402-2023

EXAMINER

FISCHER, ANDREW J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/897,723	Applicant(s) BARROTT ET AL.	
	Examiner Andrew J. Fischer	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 C.F.R. §1.114

1. A request for continued examination (“RCE”) under 37 C.F.R. §1.114, including the fee set forth in 37 C.F.R. §1.17(e), was filed in this application on April 18, 2005. This application was under a final rejection (the First Final Office Action, mailed January 13, 2005) and is therefore eligible for continued examination under 37 C.F.R. §1.114. Because the fee set forth in 37 C.F.R. §1.17(e) has been timely paid, the finality in the previous First Final Office Action has been withdrawn pursuant to 37 C.F.R. §1.114.

Acknowledgements

2. In accordance with the RCE noted above, claims 1-12 and 21-28 remain pending.
3. All references in this Office Action to the capitalized versions of “Applicants” refers specifically the Applicants of record. References to lower case versions of “applicant” or “applicants” refers to any or all patent “applicants.” Unless expressly noted otherwise, references to “Examiner” in this Office Action refers to the Examiner of record while reference to or use of the lower case version of “examiner” or “examiners” refers to examiner(s) generally.
4. This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologies for these errors.

Claim Rejections - 35 USC §102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. . . .

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1, as understood by the Examiner, is rejected under 35 U.S.C. §102(b) as being clearly anticipated by Chen et. al. (U.S. 5,590,197)(“Chen”). Chen discloses presenting an electronic selection guide page which lists a plurality of user actions (e.g. purchase a product); displaying a first electronic response page (the checkout page) in response to selection of one of the plurality of actions; and the electronic response page displaying a plurality of information (e.g. description, price, etc.).

7. Claim 1-12 and 21-28, as understood by the Examiner, are rejected under 35 U.S.C. §102(e) as being clearly anticipated by Wong et. al. (U.S. 6,115,690)(“Wong”). Wong discloses presenting an electronic selection guide page which lists a plurality of user actions (e.g. purchase a product); displaying a first electronic response page (the checkout page) in response to selection of one of the plurality of actions; and the electronic response page displaying a plurality of information (e.g. description, price, etc.).

Art Unit: 3627

8. Claim 1-12 and 21-28, as understood by the Examiner, are rejected under 35

U.S.C. §102(b) as being clearly anticipated by Yoshinaga et. al. (JP 4 10134105 A)

("Yoshinaga"). Yoshinaga discloses the claimed method including web based funeral system.

Claim Rejections - 35 USC §103

9. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all

obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 1-12 and 21-28, as understood by the Examiner, are alternatively rejected under 35

U.S.C. §103(a) as being unpatentable over Wong.¹ It is the Examiner's principle position that

the claims are anticipated because of the claimed server structure is inherent.

However if not inherent, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wong to include the claimed server structure. As noted in the previous First Non Final Office Action, absent such new or unexpected results, such modifications either increasing or decreasing the number of servers or even reassigning tasks to different server(s) would have helped maintain benefits from economies of scale in addition to offering increased security, excellent data management, fast response, and room for expansion while reducing both operating and capital costs.

¹ See MPEP §2112 expressly authorizing alternative §102/§103 rejections when the question of inherency is present in the anticipation rejection.

Art Unit: 3627

11. Claim 2-12 and 21-28, as understood by the Examiner, are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Chen in view of Arbuckle (U.S. 5,651,117).² It is the Examiner's principle position that the claims are anticipated because of the claimed server structure is inherent.

However if not inherent, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Chen as taught by Arbuckle to include the Barrott's selling of funeral items. Such a modification would have helped increase revenue.

12. For due process purposes, the Examiner again concludes that Applicants have decided not to be their own lexicographer by indicating and defining claim limitations to have meanings other than their ordinary and accustomed meanings. To support this position, the Examiner relies on the following factual findings. First and as noted in the previous Office Action,³ the Examiner has carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, the Examiner finds that not only have Applicants not pointed to definitional statements in their specification or prosecution history, Applicants have also not pointed to a term or terms in a claim with which to draw in those statements⁴ with the

² See MPEP §2112 expressly authorizing alternative §102/§103 rejections when the question of inherency is present in the anticipation rejection.

³ See the First Final Office Action mailed January 13, 2005, Paragraph No. 14; the First Non Final Office Action mailed August 24, 2005, Paragraph No. 27.

⁴ "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, *at the very least*, point to a term or terms in the claim with which to draw in those statements. [Emphasis added.]" *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999).

Art Unit: 3627

required clarity, deliberateness, and precision.⁵ Third, after receiving express notice in the previous Office Action of the Examiner's position that lexicography is not invoked,⁶ Applicants have not pointed out the "supposed errors" in the Examiner's position regarding lexicography invocation in accordance with 37 C.F.R. §1.111(b) (*i.e.* Applicants have not argued lexicography is invoked). Finally and to be sure of Applicants' intent, the Examiner also notes that Applicants have declined the express invitation⁷ to be their own lexicographer.⁸ Accordingly and for due process purposes, the Examiner gives notice that for the remainder of the examination process (and unless expressly noted otherwise by the Examiner), the heavy presumption in favor of the ordinary and accustomed meaning is not overcome; the claims therefore continue to be interpreted with their "broadest reasonable interpretation" *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).⁹ The Examiner now relies heavily and

⁵ "The patentee's lexicography must, of course, appear 'with reasonable clarity, deliberateness, and precision' before it can affect the claim." *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249, 48 USPQ2d 1117, 1121 (Fed. Cir. 1998) citing *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994).

⁶ See the First Final Office Action mailed January 13, 2005, Paragraph No. 14.

⁷ *Id.*

⁸ The Examiner's requirements on this matter were reasonable on at least two separate and independent grounds. First, the Examiner's requirements were simply an express request for clarification of how Applicants intend their claims to be interpreted so that lexicography (or even an *attempt* at lexicography) by Applicants was not inadvertently overlooked by the Examiner. Second, the requirements were reasonable in view of the USPTO's goals of compact prosecution, productivity with particular emphasis on reductions in both pendency and cycle time, and other goals as outlined in the USPTO's The 21st Century Strategic Plan, February 3, 2003 available at www.uspto.gov/web/offices/com/strat21/index.htm (last accessed May 5, 2005).

⁹ See also *In re Bass*, 314 F.3d 575, 577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) ("In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim

Art Unit: 3627

extensively on this interpretation.¹⁰ Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending.

13. Under the broadest reasonable interpretation standard noted above and unless modified in this Office Action, the Examiner maintains his interpretations including the statements and/or definitions of claim limitations as noted in previous Office Action. Those previous definitions are part of the administrative record and, in accordance with *In re Morris*, are provided simply as a factual source to support the Examiner's claim interpretations (and ultimately the Board of Patent Appeals and Interferences claim interpretations if necessary¹¹) during ex parte examination.

14. As noted in the previous Office Action, functional recitation(s) using the word "for" or other functional terms (*e.g.* "for arranging a funeral" as recited in claim 1) have been considered but given less patentable weight¹² because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368,

are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification") (citations omitted); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc); and MPEP §§ 2111 and 2111.01.

¹⁰ See 37 C.F.R. §1.104(c)(3) which states in part: "the examiner may rely upon admissions by applicant . . . as to *any matter* affecting patentability [Emphasis added.]"

¹¹ See *Gechter v. Davidson*, 116 F.3d 1454, 1460, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997) ("[W]e hold that the Board is required to set forth in its opinions specific findings of fact and conclusions of law adequate to form a basis for our review.").

¹² See *e.g. In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983)(stating that although all limitations must be considered, not all limitations are entitled to patentable weight).

Art Unit: 3627

1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.).

15. The Examiner maintains his position that Applicants have decided not to recite any product-by-process limitations.

Response to Arguments

16. Applicants' arguments filed in the after final amendment on March 14, 2005 have been fully considered but they are not persuasive.

Conclusions of Law

17. Applicants first argue that anticipation requires a single reference to disclose every element of the claim and cites *Ex parte Levy* for their position.¹³ The Examiner respectfully disagrees since multiple reference anticipation rejections are clearly recognized in the law. See *e.g.* §MPEP 2131.01.

18. Applicants also argue that “as part of the evidentiary burden on the Examiner, it is necessary for the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference” and cites *Lindemann Maschinenfabrik v. American Hoist* to support their position.¹⁴ Again the Examiner respectfully disagrees. As a starting point, the Examiner notes that *Lindemann* involves inter partes litigation—not ex parte examination. It is therefore impossible for the panel in *Lindemann* to hold for a procedural matter related to ex

¹³

Art Unit: 3627

parte examination. Nevertheless, the Examiner has reviewed *Lindemann* and can not locate any such holding.

19. Additionally, anticipation is considered a question of fact. *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000); *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869). Anticipation requires the Examiner to meet the ‘All Elements Test.’ “To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). In other words, all elements of the claimed invention must be disclosed in some fashion for the claim to be anticipated. Logically, the lack of a single element would negate anticipation. “[A]bsence from the reference of any claimed element negates anticipation.”

Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

20. Yet it is important to keep in mind that “[a]n anticipatory reference, however, need not duplicate word for word what is in the claims.” *Standard Havens Prods., Inc. v. Gencor Indus., Inc.*, 953 F.2d 1360, 1369, 21 USPQ2d 1321, 1328 (Fed. Cir. 1991). “While a reference must be considered not only for what it expressly teaches, but also for what it fairly suggests” *In re Bell*, 991 F.2d 781, 785, 26 USPQ2d 1529, 1532 (Fed. Cir. 1993) (citations and quotations omitted).¹⁵ In other words, “[t]he use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain.” *In re Heck*, 699 F.2d 1331, 1332-

¹⁴ *Id.*

¹⁵ See also *In re Widmer*, 353 F.2d 752, 757, 147 USPQ 518, 523 (CCPA 1965)(noting that a reference is not limited to its examples, but is available for all that it fairly discloses and suggests).

Art Unit: 3627

33, 216 USPQ 1038, 1039 (Fed. Cir. 1983)(quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).¹⁶

21. In an effort to meet each claimed element in the ‘All Elements Test’, anticipation may also be established based upon a *combination* of a prior art reference and the knowledge of one of ordinary skill in the art. “A reference anticipates a claim if it discloses the claimed invention ‘such that a skilled artisan could take its teachings in *combination with his own knowledge of the particular art and be in possession of the invention*. [Emphasis in original.]” *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995) citing *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

22. Applicants argue that “no where in Chen is it disclosed or suggested that their system displays a first electronic response page.” The Examiner respectfully disagrees. Chen discloses using a browser to purchase goods over the Internet. The fact that Chen is silent does not mean the element is not present. It is the Examiner position that these features are common sense. See *e.g.* Levine (U.S. 5,745,681), Nguyen et. al. (U.S. 5,931,917), and Blinn et. al. (U.S. 5,897,6222) for exemplary screens, processes, and mechanisms in an Internet purchasing system using a web browser. To be clear, one of ordinary skill need not even recognize that these features are inherent. “In sum, [the Federal Circuit’s] precedent does not require a skilled artisan to recognize the inherent characteristic in the prior art that anticipates the claimed invention.” *Schering Corp. v. Geneva Pharmaceuticals, Inc.*, 339 F.3d 1373, 1378, 67 USPQ2d 1664, 1668 (Fed. Cir. 2003). The fact that Applicants’ do not recognize certain features is either inherent

¹⁶ See MPEP §2123, Subsection titled “Patents Are Relevant as Prior Art for All They Contain.”

Art Unit: 3627

and/or old and well known has no bearing whether or not a claim is anticipated or rendered obvious.

Functional Language

23. Applicants also argue that “the Examiner has clearly give no patentable weight to use of the word for in the limitations of claim 1 because it is believe that the use of such a term in the claim provides no additional step.”¹⁷

24. First a review of the previous Office Action will reveal that the Examiner has never made such a statement. In other words, a review of the office action will reveal that the Examiner has *considered* all claimed elements. Because Applicants’ premise is therefore imprecise or not true, it is axiomatic than any remaining logic in this argument is immaterial since Applicants have started with an incorrect assumption which fatally attaches to Applicant’s argument. For this reason alone, Applicants’ arguments are not persuasive.

25. Second, even *if* a statement was in fact made that a particular claim limitation is to be given ‘no patentable weight,’ a blanket proposition by Applicants that such statements are improper is clearly not true. The Court of Appeals for the Federal Circuit has previously held that certain limitations are entitled to “no patentable weight.” See *Ex parte Minks*, 169 USPQ 120, 122 (B.P.A.I. 1971) affirming the examiner’s contention that a mere statement of intended use in a preamble is entitled to “no patentable weight” since the body of the claim completely defines the structure of the claimed invention; and *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (noting that “Schreiber’s contention that his

¹⁷ Applicants’ arguments filed March 13, 2005, Page 4, lines 1-3.

Art Unit: 3627

structure will be used to dispense popcorn does not have patentable weight if the structure is already known, regardless of whether it has ever been used in any way in connection with popcorn.”). An argument that that examiners are forbidden to give claim phrases “no patentable weight” is simply not supported. For this reason alone, Applicant’s arguments are not persuasive.

Preamble

26. Next, Applicants argue that the preamble of claim recites a method for arranging a funeral.¹⁸ However the recitation of “for arranging a funeral” has been considered has not been given little patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). For this reason alone, Applicants’ arguments are not persuasive.

27. Applicants appear to apply essentially the same arguments to Wong and Yoshinaga as they did to Chen. For the reasons noted above, Applicants’ arguments have been considered but are not persuasive.

28. Applicants’ declaration states that the inventors of this application have invented and reduced to practice the subject matter in claims 1-12 and 21-28 prior to the effective filing date

¹⁸ Applicants’ arguments filed March 13, 2005, Page 4, lines 1-3.

Art Unit: 3627

of the Torres reference. Because the Examiner is required to accept all statements in the declaration as being true (absent evidence to the contrary), the rejections based on Torres have been withdrawn.

Conclusion

29. References considered pertinent to Applicants' disclosure are listed on form PTO-892. Unless expressly noted otherwise by the Examiner, all references listed on form PTO-892 are cited in their entirety.

30. The following two (2) citations to the Manual of Patent Examining Procedure ("MPEP") apply to this Office Action: MPEP citations to Chapters 100, 200, 500, 600, 700, 1000, 1100, 1300, 1400, 1500, 1700, 1800, 2000, 2100, 2200, 2500, 2600, and 2700 are from the MPEP 8th Edition, Rev. 2, May 2004. All remaining MPEP citations are from MPEP 8th Edition, August 2001.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

32. Also in accordance with *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), the Examiner finds that Nathan J. Muller's Desktop Encyclopedia of the Internet, ("Desktop Encyclopedia") is additional evidence of what is basic knowledge or

Art Unit: 3627

common sense to one of ordinary skill in this art. Muller's Desktop Encyclopedia is a practical reference that clearly explains Internet services, applications, protocols, access methods, development tools, administration and management, standards, and regulations. Because of the reference's basic content (which is self-evident upon examination of the reference) and after further review of the entire record including the prior art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), the Examiner finds that the Desktop Encyclopedia is primarily directed towards those of low skill in this art. Because the reference is directed towards those of low skill in this art, the Examiner finds that one of ordinary skill in this art must—at the very least—be aware of and understand the knowledge and information contained within the Desktop Encyclopedia.

33. In accordance with the USPTO's goals of customer service, compact prosecution, and reduction of cycle time, the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has again provided Applicants with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. The Examiner notes and thanks Applicants for their "Remarks" (beginning on page 2) traversing the Examiner's positions on various points. If Applicants disagree with any additional factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,¹⁹ the Examiner respectfully reminds Applicants to properly traverse the Examiner's position(s) in accordance with 37 C.F.R. §1.111(b) in their next properly filed response. By addressing these issues now, matters where the Examiner and Applicants agree can be eliminated allowing the

Art Unit: 3627

Examiner and Applicants to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time. If Applicants have any questions regarding the Examiner's positions or have other questions regarding this communication or even previous communications, Applicants are strongly encouraged to contact Examiner Andrew J. Fischer whose telephone number is (571) 272-6779. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's immediate supervisor, Robert Olszewski, can be reached at (571) 272-6788. The fax number for facsimile responses is now (703) 872-9306.



Andrew J. Fischer
Primary Examiner
Art Unit 3627

AJF
May 5, 2005

¹⁹ *E.g.*, if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.